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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST MARSHALL ARRIEH, RESPONDENT.	: : : : :	FINAL DECISION AND ORDER

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Marshall Arrieh
2703 W. Wisconsin Avenue
Milwaukee, WI 53208

Wisconsin Real Estate Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Marshall Arrieh ("Arrieh"), 2703 W. Wisconsin Avenue, Milwaukee, WI, was at all times relevant to this complaint licensed as a real estate broker pursuant license # 9908, and has been so licensed since August 8, 1950, and as of July 15, 1983 also has been known as Arrieh Realty Company.

2. Arrieh was licensed to practice law in Wisconsin in 1946 and practiced in Milwaukee.

3. In 1982, Arrieh in his capacity as attorney represented a woman in regard to the sale of her business.

4. As the result of an investigation of the Arrieh's conduct in connection with the sale of the business, the Board of Attorneys Professional Responsibility brought disciplinary proceedings against Arrieh heard by a referee.

5. By Decision and Order dated November 21, 1989, In the matter of Disciplinary Proceedings against Marshall Arrieh, Attorney at Law, 152 Wis. 2d 147 (1989), the Supreme Court adopted the referee's findings and conclusions concerning Arrieh's violations of the Rules for Professional Conduct for Attorneys as more fully set forth in Decision and Order attached hereto as Exhibit A and incorporated herein by reference, and imposed a one year suspension and assessed costs of the proceeding against Arrieh.

6. During the period of his suspension from the practice of law, while acting under his real estate broker's license, Arrieh repeatedly made separate charges for the preparation of real estate documents.

7. Arrieh represents that he has not renewed his real estate broker's license (# 9088) on or after the December 31, 1990 renewal date.

8. Arrieh agrees that he will not renew his real estate broker's license (# 9088) at any time, and will allow the Board to terminate his right to renew and all other existing rights and privileges conferred by this license.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to Sec. 452.14, Wis. Stats.

2. The Wisconsin Real Estate Board is authorized to enter into the attached Stipulation pursuant to Sec. 227.44(5), Wis. Stats.

3. Respondent Marshall Arrieh is subject to disciplinary action against his license to practice as a real estate broker in the State of Wisconsin, pursuant to sec. RL 16.05 Wis. Adm. Code, by making separate charges for the preparation of real estate documents and sec. RL 24.17(1) Wis. Adm. Code, by a violation of any law, the circumstances of which substantially relate to the practices of a real estate broker.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that consistent with his agreement and in lieu of other discipline allowed by law Respondent Marshall Arrieh's right to renew his real estate broker's license (# 9088) is terminated, together with all existing rights and privileges conferred by said license, effective on the date of this Final Decision and Order.

IT IS FURTHER ORDERED, that consistent with his agreement and in lieu of other discipline allowed by law Respondent Marshall Arrieh will not practice real estate in the State of Wisconsin without a current and valid license.

IT IS FURTHER ORDERED, that consistent with his agreement and in lieu of other discipline allowed by law Respondent Marshall Arrieh will not seek

licensure as a real estate broker or salesperson in the State of Wisconsin for a period of one (1) year from the date of this Final Decision and Order, and then only after he has successfully completed Fifteen (15) hours of real estate-related education covering (a) Real Estate Trust Funds, (b) Code of Ethics, (c) Service and Responsibility to Clients, and (d) Use of Approved Forms, (e) other related matters, and submitted with his application proof of the same in the form of verification from the institution providing the education. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that are or may be instituted by the Department or Board.

IT IS FURTHER ORDERED, that within Ten (10) days of the date of this Final Decision and Order, Respondent Marshall Arrieh surrender to the Department of Regulation and Licensing all expired licenses and certificates issued to him.

Dated this 27TH day of JUNE, 1991.

WISCONSIN REAL ESTATE BOARD

by: Peter J. Lebis

effective January 1, 1988, require a lawyer who is a candidate for judicial office to comply with applicable provisions of the Code of Judicial Ethics.

IT IS ORDERED that the complaint of the Board of Attorneys Professional Responsibility is dismissed.

ABRAHAMSON, J., did not participate.

Exhibit "A"

EXHIBIT "A"

IN the MATTER OF DISCIPLINARY PROCEEDINGS AGAINST Marshall ARRIEH, Attorney at Law.

Supreme Court

No. 87-0221-D. Submitted on briefs November 1, 1989.—Decided November 21, 1989.

(Also reported in 448 N.W.2d 4.)

Attorneys at Law § 35*—suspension of license—misuse of client's funds.

In attorney disciplinary proceeding, attorney's license to practice law suspended for one year despite lack of contention that attorney used client's funds for personal investments since, by depositing client's funds in attorney's personal investment brokerage account where funds were subject to automatic withdrawal to pay for attorney's investments rather than placing funds in client trust fund as required by rules of professional conduct, attorney treated client's funds as his own, placed his own interests above those of client, and attorney repeatedly attempted to conceal misconduct during circuit court proceeding and in disciplinary investigation.

For the appellant there were briefs by *Marshall Arrieh*, Milwaukee.

For the Board of Attorneys Professional Responsibility there was a brief by *John A. Nelson* and *Von Briesen & Purtell, S.C.*, Milwaukee.

PER CURIAM. *Attorney disciplinary proceeding; attorney's license suspended.*

The respondent attorney, Marshall Arrieh, appealed from the referee's recommendation that his license to

*See Callaghan's Wisconsin Digest, same topic and section number.

practice law be suspended for one year as discipline for professional misconduct. The referee found that he had converted a client's funds to his own use, failed to keep complete records of that client's funds coming into his possession, failed to produce trust account records and other documents subpoenaed in a civil action against him concerning this client's matter, gave false and misleading statements in the course of a deposition concerning his records of those dealings, made false and misleading statements in an affidavit and in testimony in the court action concerning his handling of the client's funds, gave similar false and misleading statements to the district professional responsibility committee investigator and failed to produce trust account records upon request by the Board of Attorneys Professional Responsibility (Board). Attorney Arrieh took the position that an appropriate disciplinary sanction for this misconduct would be either a public reprimand or a three-month license suspension.

We determine that the recommended discipline is appropriate and we impose a one-year suspension on Attorney Arrieh's license to practice law. Notwithstanding that there is no allegation that he actually spent client funds for his own personal purposes, Attorney Arrieh did not place those funds in a client trust account, as required by rule, but deposited them in a personal investment brokerage account from which they were subject to being automatically withdrawn to pay for his investment activities. In so doing, Attorney Arrieh placed his own personal interests above those of his client with respect to the safeguarding of the client's funds. Moreover, when his handling of the client's funds was questioned, both in a circuit court proceeding and in the course of investigation by the disciplinary authorities, Attorney Arrieh gave false and misleading statements

and failed to produce records of his trust account transactions. Taken together, these violations of the rules of professional conduct are sufficiently serious to warrant a one-year suspension of his license to practice law.

Attorney Arrieh was licensed to practice law in Wisconsin in 1946 and practices in Milwaukee. He has not previously been the subject of an attorney disciplinary proceeding.

The referee, the Honorable John A. Fiorenza, reserve judge, made findings of fact based on testimony presented at the disciplinary hearing and matters to which the parties had stipulated. Those facts arose out of Attorney Arrieh's representation of a woman in 1982 concerning the sale of her business. As part of that transaction, Attorney Arrieh received a check for $100 earnest money and a $10,000 cashier's check from the buyer, together with a promissory note for the balance of the purchase price.

When it was later discovered that the assets of the business were subject to a prior security agreement and that an underlying land contract was in foreclosure, the buyer demanded rescission of the sale and return of the $10,000 payment. Attorney Arrieh failed to return the money and, in October, 1983, the buyer filed a civil action against him and his client, alleging the sale was fraudulent.

At the time Attorney Arrieh acted in this matter, he maintained a client trust account in one bank, a law office account in another bank and two personal accounts at an investment company, one of them a "ready assets trust" and the other an account for stock transactions. The ready assets account provided for automatic transfer of funds into the stock transaction account as necessary for Attorney Arrieh's stock dealings.

When Attorney Arrieh received the funds on his client's behalf on November 20, 1982, he cashed the $100 earnest money check on January 5, 1983 at the bank where he maintained his law office account. He subsequently deposited the $10,000 cashier's check, together with other funds, into his law office account. The office account had a balance of $1,500 prior to that deposit; thereafter the balance was $20,571. Attorney Arrieh then wrote a $15,000 check on that account and deposited the proceeds into his ready assets account, where they remained until January, 1984.

In January, 1984, Attorney Arrieh issued two checks written on his client trust account to his client, one for $100 and the other for $10,000, representing the payments from the buyer he had received on his client's behalf in November, 1982. Three days later, he had the client give him two checks, one for $100 and one for $10,000, which he deposited in his client trust account. Two weeks later, he wrote a $10,000 check on the ready assets trust account payable to himself and deposited it into his client trust account. In September, 1984, Attorney Arrieh paid $10,000 from his trust account into the circuit court to be held pending disposition of the action against himself and his client.

While that action was in progress, Attorney Arrieh was subpoenaed to appear for a deposition in January, 1984 and produce all documents and writings concerning his receipt and disbursement of the $10,000 check. When he failed to produce those records at the deposition, the buyer's attorney filed a motion for contempt, which resulted in a court order directing Attorney Arrieh to appear at another deposition and produce the requested records. Attorney Arrieh again failed to produce them and the court issued an order to show cause for con-

tempt, requiring Attorney Arrieh to appear and produce the records.

Attorney Arrieh again failed to produce his trust account records and another motion for contempt was filed. The court again ordered him to appear for deposition and produce the documents. In response to that order, Attorney Arrieh did produce a ledger sheet he had prepared, purporting to show the dates and amounts of all funds received and disbursed on behalf of his client in this transaction, but he did not produce any original trust account documents. The ledger sheet showed merely receipt of a $100 check and a $10,000 check in November, 1982 and disbursement checks in those amounts in January, 1984. The next transaction shown on this ledger sheet was receipt of a $100 check and a $10,000 check from his client in January, 1984. Attorney Arrieh testified at the deposition that this ledger sheet was a trust account record for his client but he failed to produce any deposit slips, check stubs or cancelled checks relating to the transaction.

In the course of the court action, Attorney Arrieh filed an affidavit in which he stated that he first deposited the two checks received from the buyer into his law office account because they were third-party checks and the bank where he maintained his client trust account would not accept them for deposit in that form. At trial Attorney Arrieh first testified that he had placed the $100 earnest money check into his trust account but then admitted to having first cashed it; he then testified that he took the cash and deposited it into his trust account. He also testified that he deposited the $10,000 check into his law office account because the other bank would not accept for trust account purposes a check made out to a third party. He further testified that he deposited those funds in his trust account, showing the

ledger sheet as evidence of that fact. He also testified that the $15,000 check he had issued from his law office account to the ready assets account was not related to and had no bearing on the issues in the pending case.

When subsequently interviewed in the course of the disciplinary investigation, Attorney Arrieh stated that he first deposited the $10,000 check into his law office account and then put those funds in his client trust account. When asked by the Board to produce all records in his possession concerning the receipt and disbursement of the $10,000 he received on his client's behalf, Attorney Arrieh produced only photocopies of the two checks he paid to his client from his trust account in January, 1984. The Board then requested photocopies of the checks he had received from the buyer in November, 1982, together with all trust account records covering the relevant period. Attorney Arrieh told the Board that he would do so by October 2, 1986, but did not furnish any trust account records until December 5, 1986, the evening prior to the Board's scheduled review of the investigative report concerning this matter.

At the hearing in this disciplinary proceeding, Attorney Arrieh again claimed that the reason he originally deposited the $10,000 check into his law office account was that the bank where he maintained his client trust account had a policy prohibiting the direct deposit of third-party checks. However, the branch manager of that bank testified that the bank had no such policy.

On the basis of these facts, the referee concluded as follows. Attorney Arrieh's failure to promptly place client funds into a client trust account violated SCR 11.05(1) [1] and 20.50(1);[2] his failure to maintain complete

[1]The corresponding provision of the current Rules of Professional Conduct for Attorneys is SCR 20:1.15(a).

records of the client's funds coming into his possession violated SCR 11.05 and 20.50(2)(c);[3] his cashing the $100 check and depositing the $10,000 check into his law office account and then into his ready assets investment account constituted conversion of client funds, in violation of SCR 20.04(4). [4] The referee also concluded that Attorney Arrieh's failure to produce trust account records and documents relating to the sale transaction which he had been ordered to produce by the circuit court on three occasions constituted disregard of court orders, in violation of SCR 20.40(1).[5]

The referee further concluded that the ledger sheet Attorney Arrieh produced, purporting to show dates and amounts of all funds in his trust account held on behalf of this client, was false and misleading, as it represented that he held those funds in his trust account when, in fact, no funds of this client had been on deposit in the client trust account between November, 1982 and January, 1984; thus, he created and presented false evidence, in violation of SCR 20.36(1)(f) [6] and SCR 20.04(4). Likewise, the false statements in his affidavit filed in the court action and his false testimony concerning the handling of his client's funds violated SCR 20.04(4) and 20.36. Finally, Attorney Arrieh's false statements to the district committee investigator violated SCR 20.04(4)

[2]The corresponding provision of the current Rules of Professional Conduct for Attorneys is SCR 20:1.15(a).

[3]The corresponding provision of the current Rules of Professional Conduct for Attorneys is SCR 20:1.15(e).

[4]The corresponding provision of the current Rules of Professional Conduct for Attorneys is SCR 20:8.4(c).

[5]The corresponding provision of the current Rules of Professional Conduct for Attorneys is SCR 20:3.4.

[6]The corresponding provision of the current Rules of Professional Conduct for Attorneys is SCR 20:3.3.

and his failure to comply with requests from the Board to produce trust account records violated SCR 22.07.

As discipline for this misconduct, the referee recommended that Attorney Arrieh's license to practice law be suspended for one year. The referee further recommended that Attorney Arrieh be required to pay the costs of this proceeding.

We adopt the referee's findings of fact, as they were not contested in the appeal and are not clearly erroneous. We also adopt the referee's conclusions of law based on those facts.

In this appeal, Attorney Arrieh contended that he deposited client funds in the ready assets investment account at the request of his client's brother, who was acting on his sister's behalf in the sale transaction. He claimed he did so because funds in that account were earning 12 percent interest, while a regular savings account was paying interest of less than half that amount. Contrary to those assertions, the referee specifically found that the client understood that her funds were held in a trust account and was never aware that they were in any other account. She also testified that Attorney Arrieh never gave her an accounting of those funds and never informed her that they were earning interest. For his part, the client's brother testified that he and his sister had asked Attorney Arrieh to hold the funds in a trust account until closing and that they be placed in an interest-bearing account.

Attorney Arrieh also asserted that his affidavit and testimony in the court action that he deposited the $10,000 check in his client trust account were accurate, as the funds from that check were eventually deposited into the trust account. Attorney Arrieh, however, ignored the fact that for a period of 14 months his client's $10,000 were held not in his trust account but in

his own personal investment-related account. He contended that his statements were appropriate and proper as a defense in the lawsuit against him and that he had not been asked the right questions to elicit a complete response.

Attorney Arrieh's argument also ignored the fact that the ready assets trust account in which the client's $10,000 was held for over a year had an automatic transfer provision by which funds from that account would be automatically transferred into Attorney Arrieh's stock transaction account. Thus, the client's funds were commingled with Attorney Arrieh's personal funds and readily available to pay for his stock purchases, if needed.

In determining appropriate discipline for Attorney Arrieh's misconduct in this matter, we note there is no contention that Attorney Arrieh used the client funds he had deposited in his personal investment account or that he intended to do so. Nevertheless, Attorney Arrieh did not afford those client funds the protection required by our rules. Rather, he commingled those funds with his own in a personal account in which they were at risk to be used, without his specific authorization, to fund his investment transactions, in the event his own funds in that account were insufficient to do so. Further evidence that Attorney Arrieh treated those client funds as his own is the fact that he made no accounting to the client concerning the funds nor informed her that they were earning interest. Indeed, when he issued the two checks from his trust account to his client in 1984, they did not include any interest the client's funds had earned in the ready assets account.

In addition to his mishandling of client funds, Attorney Arrieh repeatedly attempted to conceal that misconduct, first in the circuit court proceeding and then in the course of a disciplinary investigation. Fur-

ther, when confronted, he attempted to justify his actions by invoking a nonexistent bank policy concerning deposit of third-party checks into his client trust account.

The seriousness of Attorney Arrieh's professional misconduct in this matter warrants the suspension of his license to practice law and we suspend his license for one year.

IT IS ORDERED that the license of Marshall Arrieh to practice law in Wisconsin is suspended for a period of one year, commencing January 1, 1990.

IT IS FURTHER ORDERED that within 60 days of the date of this order Marshall Arrieh pay to the Board of Attorneys Professional Responsibility the costs of this disciplinary proceeding, provided that if the costs are not paid within the time specified and absent a showing to this court of his inability to pay the costs within that time, the license of Marshall Arrieh to practice law in Wisconsin shall be suspended until further order of the court.

IT IS FURTHER ORDERED that Marshall Arrieh comply with the provisions of SCR 22.26 concerning the duties of a person whose license to practice law in Wisconsin has been suspended.

STEINMETZ, J., did not participate.

IN the MATTER OF DISCIPLINARY PROCEEDINGS AGAINST Lawrence A. WALES, Attorney at Law.

Supreme Court

No. 89-2118-D. Filed November 21, 1989.

(Also reported in 448 N.W.2d 4.)

Attorneys at Law § 30*—voluntary revocation of license—felony convictions for fraud.

Attorney's petition for voluntary revocation of his license to practice law granted where attorney convicted in federal court of eight felony counts of submitting false or forged documents to Department of Housing and Urban Development in order to obtain federally insured loans and attorney's petition admitted he could not successfully defend against allegations that he engaged in illegal conduct and conduct involving dishonesty, deceit or misrepresentation in violation of rules of professional conduct.

ORDER

On November 16, 1989 Attorney Lawrence A. Wales filed a petition for the voluntary revocation of his license to practice law. In that petition Attorney Wales stated that he is the subject of an investigation by the Board of Attorneys Professional Responsibility which resulted from his having been convicted in federal court on May 30, 1989, of eight felony counts of submitting false and forged documents to the Department of Housing and Urban Development in order to obtain federally insured loans. Attorney Wales was given a suspended sentence

*See Callaghan's Wisconsin Digest, same topic and section number.

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST MARSHALL ARRIEH, RESPONDENT.	: : : : :	STIPULATION

It is hereby stipulated between Marshall Arrieh, personally on his own behalf and the Department of Regulation and Licensing, Division of Enforcement by its attorney Richard Castelnuovo, as follows:

1. This Stipulation is entered into as a result of a pending disciplinary proceeding against Marshall Arrieh ("Respondent") by the Division of Enforcement (88 REB 82). The parties agree to the submission of this Stipulation directly to the Real Estate Board without further proceedings.

2. Respondent is aware of and understands his rights with respect to disciplinary proceedings, including the right to a statement of the allegations against him; the right to a hearing at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel attendance of witnesses by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondent voluntarily and knowingly waives the rights set forth in paragraph 2 above, on the condition that all of the provisions of this Stipulation are approved by the Board.

4. Respondent is aware of his right to seek legal representation and has been given the opportunity to seek legal advice prior to execution of this Stipulation.

5. With respect to the attached Final Decision and Order, Respondent does not contest the charges against him, and for the purposes of resolving this matter and to avoid the expense and inconvenience of any proceedings agrees that the Board may make the findings set forth in the Findings of Fact, may reach the conclusions set forth in the Conclusions of Law and may enter the Order consistent with his agreement in paragraph 6 below.

6. Respondent specifically agrees that his attorney discipline and the preparation of approved forms for a fee may be treated as violations of the real estate license law, acknowledges that discipline may be imposed by the Real Estate Board for such violations, and in lieu of other discipline allowed by law further agrees:

(i) he will not renew his real estate broker's license (# 9088) at any time, and will allow the Board to terminate his right to renew and all other existing rights and privileges conferred by this license.

(ii) he will not practice real estate in the State of Wisconsin without a current and valid license; and

(iii) he will not seek licensure as a real estate broker or salesperson in the State of Wisconsin for a period of one (1) year from the date of the Final Decision and Order, and then only after he has successfully completed Fifteen (15) hours of real estate-related education covering (a) Real Estate Trust Funds, (b) Code of Ethics, (c) Service and Responsibility to Clients, and (d) Use of Approved Forms, (e) other related matters, and submitted with his application proof of the same in the form of verification from the institution providing the education. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that are or may be instituted by the Department or Board.

7. Respondent represents that he has not renewed his real estate broker's license (# 9088) prior to the December 31, 1990 renewal date or any time prior to the date of his agreement to this Stipulation, and agrees not to renew his license pending consideration of this Stipulation by the Board.

8. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation or the proposed Final Decision and Order, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

9. If the Board accepts the terms of this Stipulation, the parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties.

10. Respondent agrees that complainant's attorney, Richard M. Castelnuovo, may appear at any deliberative meeting of the Board with respect to this stipulation but that appearance is limited to statements solely in support of the Stipulation and for no other purpose.

11. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

Marshall Arrieh — 5/25/91

Marshall Arrieh — Date

Richard Castelnuovo — May 31, 1991

Richard M. Castelnuovo, Attorney
Division of Enforcement — Date

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review, the times allowed for each, and the identification of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Real Estate Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Real Estate Board

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Real Estate Board.

The date of mailing of this decision is June 28, 1991.

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

227.52 Judicial review; decisions reviewable. Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter, except for the decisions of the department of revenue other than decisions relating to alcohol beverage permits issued under ch. 125, decisions of the department of employe trust funds, the commissioner of banking, the commissioner of credit unions, the commissioner of savings and loan, the board of state canvassers and those decisions of the department of industry, labor and human relations which are subject to review, prior to any judicial review, by the labor and industry review commission, and except as otherwise provided by law.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) 1. Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. If the agency whose decision is sought to be reviewed is the tax appeals commission, the banking review board or the consumer credit review board, the credit union review board or the savings and loan review board, the petition shall be served upon both the agency whose decision is sought to be reviewed and the corresponding named respondent, as specified under par. (b) 1 to 4.

2. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency.

3. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue.

2. The banking review board or the consumer credit review board, the commissioner of banking.

3. The credit union review board, the commissioner of credit unions.

4. The savings and loan review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.

(c) A copy of the petition shall be served personally or by certified mail or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon each party who appeared before the agency in the proceeding in which the decision sought to be reviewed was made or upon the party's attorney of record. A court may not dismiss the proceeding for review solely because of a failure to serve a copy of the petition upon a party or the party's attorney of record unless the petitioner fails to serve a person listed as a party for purposes of review in the agency's decision under s. 227.47 or the person's attorney of record.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer credit review board, the credit union review board, and the savings and loan review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.